

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 48
(Draft 3)

ORDINANCE NO. 97 56

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT KALAOA 4TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-10:37.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kalaoa 4th, North Kona, Hawaii, shall be Single Family Residential (RS-10):

Beginning at the Northeasterly corner of this parcel of land, being also the Northwesterly corner of Lot 47-B-1 of this subdivision and being a point on the Southerly side of the Alanui Kauhini (Government Road), the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 6,099.80 feet South and 14,461.33 feet West and running by azimuths measured clockwise from True South:

1. 4° 00' 510.10 feet along Lot 47-B-1 of this subdivision and along the remainders of Lot 47-B and Grant 3750 to Kahananui to a point;
2. 99° 20' 906.51 feet along Lots 89, 88, 79, along the Northerly end of Holoholo Street, along Lots 188, 187, 186, 185, 184 and 183 of Kona Palisade, Unit II (File Plan 1087) and along Grant 2972 to Kaapau and Kama to a point;
3. 89° 31' 389.76 feet along Lots 183, 182, 181, 180, 179 and 178 of Kona Palisade, Unit II (File Plan 1087) and along Grant 2972 to Kaapau and Kama to a point and passing over a spike (Found) at 344.00 feet;

4. 181° 52' 20" 213.42 feet along Government Land (State of Hawaii) to a point;

Thence, for the next three (3) courses following along the Southerly side of the Alanui Kauhini (Government Road):

5. 262° 31' 763.06 feet to a point;
6. 263° 59' 468.25 feet to a point;
7. 267° 52' 30" 90.70 feet to the point of beginning and containing an area of 10.2830 Acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. This change in district classification is conditioned upon the following:

- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this ordinance.
- C. The subject property shall be subdivided in two increments. The first increment shall consist of a maximum of twenty-four (24) lots based upon the units of water available and committed to the applicant by the Department of Water Supply. Subdivision for the second increment shall be submitted only after the Department of Water Supply grants to the applicant the necessary water commitments for each of the proposed lots of the second increment. No variance from the minimum water requirements for any portion of the subject property shall be granted.

- D. Final Subdivision Approval of the proposed residential subdivision within the subject property shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- E. Restrictive covenant in the deeds of all proposed residential lots within the subject property shall prohibit the construction of an ohana dwelling or a second dwelling on each lot. A copy of the proposed covenant to be recorded with the Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval. A copy of the approved covenant shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances in conjunction with the issuance of Final Subdivision Approval for any portion of the subject property. A copy of the recorded document shall be provided to the Planning Department upon its receipt from the Bureau of Conveyances.
- F. In conjunction with Final Subdivision approval for any portion of the subject property, Holoholo Street shall be extended through the subject property to connect with Nana Street and constructed to dedicable standards with paved swales, meeting with the approval of the Department of Public Works. This roadway connection from the dedicated portion of Holoholo Street to Nana Street shall be dedicated to the County of Hawaii upon completion.
- G. Access to all lots within the proposed subdivision shall meet with the approval of the Department of Public Works. Improvements within the proposed subdivision shall include underground utilities.
- H. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works in conjunction with Final Subdivision Approval.

- I. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- J. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to parks and recreation, fire, police, solid waste disposal facilities, and roads. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of additional proposed residential lots in each such increment. The fair share contribution may be in a form of cash, land, facilities, or any combination thereof acceptable to the director in consultation with the affected agencies. The fair share contribution shall have a maximum combined value of **\$7,239.16 per lot**. Based upon the applicant's representation of intent to subdivide and develop up to thirty-four (34) residential lots, the indicated total fair share contribution is **\$246,131.44**, however, the total amount shall be increased or reduced in proportion with the actual number of subdivided lots according to the calculation and payment provisions set forth in this Condition J. The fair share contribution shall be allocated as follows:
1. \$3,490.85 per lot, for an indicated total of **\$118,688.90** to the County to support park and recreational improvements and facilities;

2. \$168.40 per lot, for an indicated total of **\$5,725.60** to the County to support police facilities;
3. \$332.61 per lot, for an indicated total of **\$11,508.74** to the County to support fire facilities;
4. \$145.62 per lot, for an indicated total of **\$4,951.08** to the County to support solid waste facilities;
5. \$3,101.68 per lot, for an indicated total of **\$105,475.12** to the State or County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities, and roads within the region impacted by the proposed development, subject to the approval of the director. The cost of providing and constructing the segment of roadway which establishes a roadway connection between Holoholo and Nana Streets (exclusive of interior subdivision roads), as set forth in Conditions F, shall be credited against the sum specified in Condition J(5) for road and traffic improvements. For purposes of administering Condition J, the fair market value of land contributed for such roadway segment and the cost of constructing its improvements shall be subject to the review and approval of the director, upon consultation with the appropriate agencies.

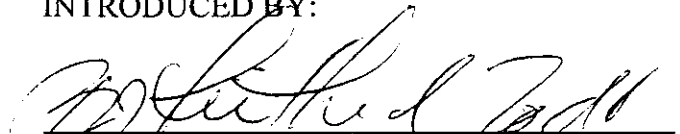
- K. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall secure the concurrence of the Office of Housing and Community Development that the applicant's affordable housing requirements, if any, have been mutually agreed to prior to Final Subdivision Approval for any portion of the subject property.
- L. Should the Council adopt a Unified Impact-Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fee Ordinance.
- M. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence.
 2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
 4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

N. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject area to its original or more appropriate designation.

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: March 19, 1997

Date of 1st Reading: March 19, 1997

Date of 2nd Reading: April 2, 1997

Effective Date: April 7, 1997

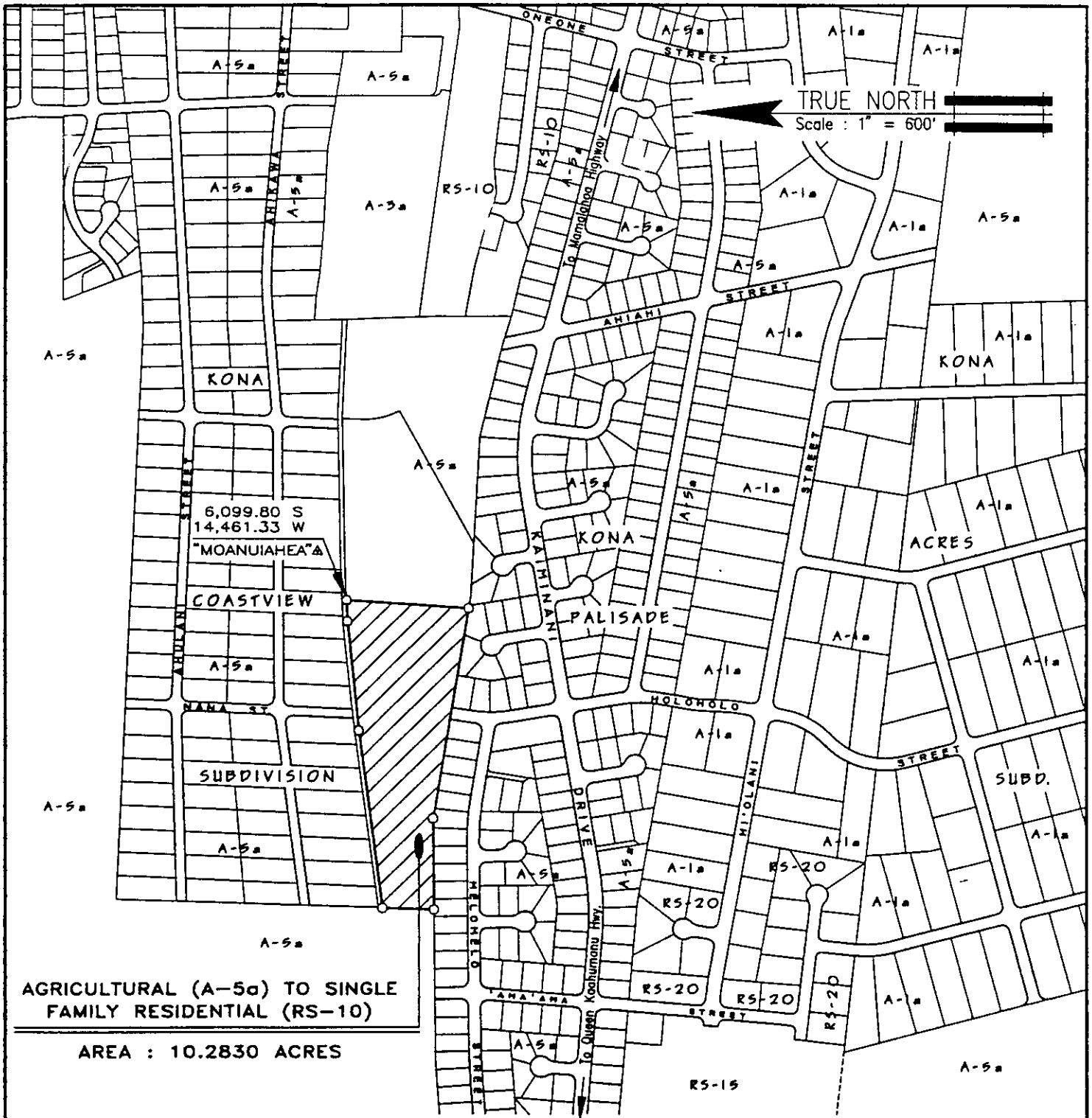
APPROVED AS TO FORM AND LEGALITY



CORPORATION COUNSEL

DEPUTY

DATED: 4/4/97



TRUE NORTH
Scale : 1" = 600'

AGRICULTURAL (A-5a) TO SINGLE FAMILY RESIDENTIAL (RS-10)

AREA : 10.2830 ACRES

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT KALAOA 4TH, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

(DRAFT 3)

'97 APR 7 9 11 AM '97

	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: March 19, 1997
 First Reading: March 19, 1997
 Published: March 27, 1997

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

Second Reading: April 2, 1997
 To Mayor: April 3, 1997
 Returned: April 7, 1997
 Effective: April 7, 1997
 Published: April 15, 1997

REMARKS:

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

Frederick Bonanni
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 4/4/97

James A. ...
 COUNCIL CHAIRMAN

Donald ...
 COUNTY CLERK

Approved/Disapproved this 7 day
 of April, 19 97.

[Signature]
 MAYOR, COUNTY OF HAWAII

Bill No.: 48 (Draft 3)
 Reference: C-161/PC-35
 Ord. No.: 97 56